COUNCIL OF THE COUNTY OF MAUI POLICY COMMITTEE

August 5, 2011	Committee	
	Report No.	

Honorable Chair and Members of the County Council County of Maui Wailuku, Maui, Hawaii

Chair and Members:

Your Policy Committee, having met on July 13, 2011, makes reference to County Communication No. 11-119, from the Emergency Management Officer, Civil Defense Agency, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII FOR GRANTING OF LICENSES FOR ACCESS, INSTALLATION AND MAINTENANCE OF SIRENS OF THE HAWAII STATE EMERGENCY OUTDOOR SIREN WARNING SYSTEM AS PART OF THE HAWAII EMERGENCY ALERT SYSTEM".

The purpose of the proposed bill is to authorize the Mayor to enter into a Memorandum of Agreement between the State Department of Defense, the State Department of Accounting and General Services, and the County, to coordinate the implementation of a Hawaii State Emergency Outdoor Siren Warning System throughout the County.

Your Committee received a revised proposed bill incorporating revisions to clarify the parties' responsibilities, update the exhibit identifying the sirens and their locations, and make nonsubstantive revisions.

State and County officials informed your Committee of cooperative efforts to modernize the emergency warning system, including a transition from mechanical to electronic sirens. The officials noted that the purpose of emergency sirens is to direct residents to turn on the radio to receive warnings and other information from civil defense officials. The County Civil Defense Agency's primary radio-station partner is KMVI (550 AM), but most other radio stations in Maui County will also provide official information in an emergency.

Your Committee requested that the County Civil Defense Agency provide a document depicting all of the siren sites for the County, including existing sites that do not need upgrades, existing sites requiring upgrades, and new sites to be added.

COUNCIL OF THE COUNTY OF MAUI POLICY COMMITTEE

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Your Committee noted that enactment of the revised proposed bill would ensure continued cooperation among all levels of government to improve the emergency warning system.

Your Committee voted 8-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Hokama, Vice-Chair Carroll, and members Baisa, Cochran, Couch, Pontanilla, Victorino, and White voted "aye". Committee member Mateo was excused.

Your Policy Committee RECOMMENDS the following:

- 1. That Bill No. _______(2011), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII FOR GRANTING OF LICENSES FOR ACCESS, INSTALLATION AND MAINTENANCE OF SIRENS OF THE HAWAII STATE EMERGENCY OUTDOOR SIREN WARNING SYSTEM AS PART OF THE HAWAII EMERGENCY ALERT SYSTEM", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
- 2. That County Communication No. 11-119 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.

G. KIKI HOKAMA, Chair

pol:cr:11025aa:cmn/dmr

ORDI	NANCE	NO.	 ,
BILL	NO.		(2011)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR
OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL
AGREEMENT WITH THE STATE OF HAWAII FOR GRANTING OF LICENSES FOR
ACCESS, INSTALLATION AND MAINTENANCE OF SIRENS OF THE HAWAII
STATE EMERGENCY OUTDOOR SIREN WARNING SYSTEM AS PART OF THE
HAWAII EMERGENCY ALERT SYSTEM

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. <u>Purpose</u>. The County of Maui ("County") and the State of Hawaii, Department of Defense, and State of Hawaii, Department of Accounting and General Services (collectively "State"), wish to enter into a Memorandum of Agreement ("Agreement") to coordinate the implementation, including planning, design and construction, of Hawaii State Emergency Outdoor Siren Warning System, together with improvements, equipment, facilities, and appurtenances related thereto throughout the County. A copy of the proposed Agreement is attached hereto as Exhibit "1".

A copy of the sirens on County-Owned or -Managed lands is attached hereto as Exhibit "2".

Section 2.20.020, Maui County Code, provides that unless authorized by ordinance, the mayor shall not enter into any intergovernmental agreement or amendment thereto which places a financial obligation upon the County or any department or agency thereof.

SECTION 2. <u>Authorization</u>. The Council hereby authorizes the Mayor to execute the Agreement, and any other necessary documents relating to the Agreement, including any amendments thereto.

SECTION 3. Effective date. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel County of Maui

 ${\tt S:\OCivil\ Defense\OPERATIONS\SIRENS\SirenMod\ PROJECT\Siren.Warning.System.Revised.wpd}$

MEMORANDUM OF AGREEMENT

BETWEEN THE

COUNTY OF MAUI

AND

STATE OF HAWAI'I

This MEMORANDUM OF AGREEMENT ("MOA"), entered into on this ____ day of _____ 2011, by and between the COUNTY OF MAUI, a municipal corporation of the State of Hawai'i, whose address is 200 South High Street, Wailuku, Hawaii 96793 ("COUNTY"), the STATE OF HAWAI'I by its DEPARTMENT OF DEFENSE, whose address is 3949 Diamond Head Road, Honolulu, Hawai'i 96816 ("DOD"), and the STATE OF HAWAI'I by its DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES, whose address is Kalanimoku Building 1151 Punchbowl Street, Honolulu, Hawai'i 96813 ("DAGS")(COUNTY, DOD and DAGS collectively referred to as "Parties").

The purpose of this MOA is to coordinate the implementation, including planning, design and construction, of Hawai'i State Emergency Outdoor Siren Warning System, together with improvements, equipment, facilities and appurtenances related thereto ("sirens and related equipment"), throughout the COUNTY.

Hawai'i Revised Statutes ("HRS") §128-2 defines a "local organization for civil defense" to include an organization created in accordance with HRS Chapter 128 to perform civil defense functions in the COUNTY. Civil defense functions include all those provided pursuant to HRS Chapter 128 which includes air raid warning services and communications. HRS §128-3 provides for the appointment of a Deputy Director for each political subdivision. HRS §128-6 establishes Civil Defense powers and provides for direction or control of warnings and signals for alerts or attacks, and the devices to be used.

Additionally, HRS §128-18 grants the STATE and COUNTY immunity from any liability for death of or injury to persons, or property damage, as a result of any act or omission in the course of the employment or in the performance of duties pursuant to HRS Chapter 128, except in cases of willful misconduct.

The DOD, DAGS, and the COUNTY, by mutual consent, agree to jointly manage efforts and projects undertaken to fulfill the responsibility for the installation, maintenance and control of such warnings and devices.

NOW THEREFORE, in consideration of the mutual covenants and promises herein made, the Parties do hereby agree as follows:

1. DOD's responsibilities:

- a. Maintain a list of proposed locations for sirens and related equipment.
- b. Participate in meetings with the COUNTY to discuss proposed siren sites.
- c. Submit listings of proposed siren sites for review and concurrence.
- d. Seek appropriations for siren warning projects on behalf of the COUNTY, and where such appropriations are made, fund the design and construction of the sirens and related equipment.

FOR COUNTY CONTROLLED SITES:

- e. Initiate a License Agreement with the COUNTY which will address site specific issues for existing and new siren sites.
- g. The License agreement conditions of access for the installation, operation, repair and maintenance of the sirens and related equipment shall include:
 - 1) DOD's contractor shall obtain a right-of-entry permit for the installation of the siren and related equipment at each siren site.
 - 2) DOD shall require its contractor to procure and maintain, during the life of each right-of-entry permit and any extensions thereof, comprehensive general liability insurance covering bodily injury and property damage with limits not less than \$1,000,000 combined single limit per occurrence and including the following extensions: (1) contractual liability to cover liability assumed under the right-of-entry permit; and (2) all insurance that may be required under the laws, ordinances or rules or regulations of any governmental authority. All required policies of insurance shall name the COUNTY, DOD, DAGS, and their elected and appointed officials, employees and agents as additional insured and provide that the policy will not be canceled, terminated, lapsed, or materially changed without 30 days' prior written notice to the County.
 - 3) DOD's contractor shall maintain and exercise due care to keep the area surrounding the siren site clear and safe for public use during the term of the right-of-entry permit.
 - 4) DOD's contractor shall restore the siren site to a condition that is substantially similar to that which existed prior to the

- commencement of the contractor's activity under each right-of-entry permit.
- 5) DOD, its officers, employees, agents, contractors, and subcontractors shall comply with and satisfy all applicable statutes, ordinances, rules and regulations of the Federal, State and COUNTY governments in performing its work at each siren site.

2. COUNTY's responsibilities:

- a. Identify, review and approve the proposed location of the siren sites
- b. Assist DOD in the coordination with site owners and communities to facilitate the siren site approvals.
- c. Participate with DOD and DAGS in the sirens final acceptance process.
- d. The COUNTY, its officers, employees, agents, contractors, and subcontractors shall comply with and satisfy all applicable statutes, ordinances, rules and regulations of the Federal, State and City governments in performing its siren project activities.

FOR COUNTY CONTROLLED SITES:

- e. Review and approve the construction plans provided by DOD for the installation of the sirens and related equipment.
- f. Grant DAGS, DOD, and their contractors a license to install, operate, and maintain sirens and related equipment on the siren sites approved by the County.
- g. Issue right-of-entry permits to DAGS' and DOD's contractor for approved siren sites.

3. DAGS' responsibilities are as follows:

- a. Provide DOD staff with technical services and overview coordination support for the implementation of DOD siren projects on COUNTY controlled siren sites.
- b. Procure the design consultants, negotiate and approve the consultant's fees, prepare the design contracts and make payments using funding appropriated for this purpose.

- c. Oversee the design, bidding, and construction phases of the work in accordance with all applicable regulatory requirements. Prepare the construction contracts and make payments.
- d. When overseeing design and construction phases of work for the DOD sirens and related equipment:
 - 1) If a siren site is located on State-owned property, DAGS shall be responsible for submitting an easement (on behalf of DOD) for the siren from the State Department of Land and Natural Resources.
 - 2) DAGS' consultants and contractors will process a right-of-entry permit for the installation of the siren and related equipment at each siren site.
 - DAGS shall require its consultants and contractors to procure and maintain, during the life of each right-of-entry permit and any extensions thereof, comprehensive general liability insurance covering bodily injury and property damage with limits not less than \$1,000,000 combined single limit per occurrence and including the following extensions: (1) contractual liability to cover liability assumed under the right-of-entry permit; and (2) products and completed operations coverage; and all insurance that may be required under the laws, ordinances or rules or regulations of any governmental authority. All required policies of insurance shall name the COUNTY, its elected and appointed officials, employees and agents as additional insured and provide that the policy will not be canceled, terminated, lapsed, or materially changed without 30 days' prior written notice to the COUNTY.
 - 4) DAGS' consultants and contractors shall maintain and exercise due care to keep the area surrounding the siren site clear and safe for public use during the term of the right-of-entry permit.
 - 5) DAGS' consultants and contractors shall restore the siren site to a condition that is substantially similar to that which existed prior to the commencement of the contractor's activity under each right-of-entry permit.
 - DAGS, its officers, employees, agents, consultants, contractors, and subcontractors shall comply with and satisfy all applicable statutes, ordinances, rules and regulations of the Federal, STATE and COUNTY governments in performing its work at each siren site.

- 4. <u>Modifications</u>. Any extensions, changes or alterations to this MOA shall be agreed to by all affected parties in writing before being undertaken.
- 5. <u>Termination</u>. Any party to this MOA shall have the privilege, with or without cause, to cancel or annul this MOA at any time upon written notice given thirty (30) days in advance of such termination.

IN WITNESS THEREOF, the Parties have executed this MOA on the day, month, and year mentioned above.

	COUNTY OF MAUI
RECOMMEND APPROVAL:	ALAN M. ARAKAWA Mayor
ANNA FOUST Emergency Management Officer	
APPROVED AS TO FORM AND LEGALITY:	
ADRIANNE N. HEELY Deputy Corporation Counsel	
APPROVED AS TO FORM:	STATE OF HAWAI'I DEPARTMENT OF DEFENSE
Deputy Attorney General	By DARRYLL D.M. WONG Adjutant General
APPROVED AS TO FORM:	STATE OF HAWAI'I DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
Deputy Attorney General	BRUCE A. COPPA State Comptroller
I//draft COM-State MOA.2-25-11	•

Sirens on Maui County-Owned or -Managed Lands Site user List of 9/7/2010 New/Replacemen approvals SIREN known Underlying Unresolved issues t Siren Location count as of Count Priority No. Siren name Comments Site Appvl Site User permits Landowner and Notes Data, GPS 7/26/10 Close to TMK 3-8-AIRPORT-Site user appvl. 1: 119. N20 53' KANAHA UPG (EOWS). Added to 241-list DPW (Amala SMA permit. COM 54.392", W156 **SMA** COM 1 MA124 BEACH on 3/22/11. Place ROW) appvl. 26' 30.811" Close to TMK 1-4 DOD's Priority, 121 dB. In roadway DPW Site user appvl. 7:009. N 20 43' or on adjacent parcel. Added to 241-(Haneoo SMA permit, COM 25.49", W155 59' 2 MA304A HAMOA list on 5/3/11. Road ROW) COM SMA appvl. 5.19" UPG. (AKA Kuau Store) DLNR-OCCL says CD permit not required Close to TMK 2-5 if siren is within the road ROW. DPW Site user appvl. 4:36. N20 55' SMA permit. COM Holomua Siren is in roadway shoulder and (Holomua 52.203", W156 3 MA108 close to Holomua St & Hana Hwv. Street ROW) SMA, CDUA COM Street appyl. 21' 43.6" UPG. SMA exempted on 2/22/11. COM appvl. Flood zone permit received. Siren is close to Park's SMA, flood TMK 4-4-1: 47. HONOKOWAI parking lot. Address is Lower DPR appvl zone-N20 57' 14.8", 4 MA404 Beach Park Honoapiilani Hwy. 6/17/10 DPR A:100vr. COM COM appvl. W156 41' 10.7" 1 UPG, SMA exempted 4/1/11. Flood zone permit received. Siren SMA, flood TMK 2-39-5: 52. is close to park parking area. DPR writ. DLNR appvl N20 43' 54.484". zone-5 DPR MA112 KALAMA Park Address is 1910 S. Kihei Rd. 4/30/09 A:100vr. **DLNR** requested 5/17/11. W156 27' 8.05" 1 UPG, SMA exempted 4/1/11, Siren DPR writ TMK 3-9-5: 30. KAMAOLE is in Kamaole Park. Address is DLNR appvl appyl N20 23' 10.349". MA113 DPR 6 Park 2400 S. Kihei Rd. 4/30/09. SMA DLNR requested 5/17/11 W156 26' 48.252" 1 UPG (AKA Duke Maliu Regional Park). MOLOKAI. Siren is in Duke SMA in process Maliu Reg Park, close to parking SMA, flood 3/22/11, COM TMK 5-3-3: 1. DPR appvl lot. Address is 240 W. zoneappvl. Flood zone N21 5' 12.331", 7 MA502 KAUNAKAKAI Kamehameha V Highway. 6/17/10 **DPR** COM/COM А:100уг. w157 0' 59.42" permit. 1 UPG. (AKA Kihei School), SMA assessment appvd 4/1/11. Siren is w/in park and close to baseball SMA, flood TMK 2-3-77: 4. field and youth center. Address is DPR writ, zone-COM appvi. Flood N20 46' 50.617". 8 MA110 131 S. Kihei Rd. 4/30/09. DPR COM Kenolio Park A:100yr. zone permit. W156 27' 40.393"

	Sir	ens o	on Maui	County-Owned o	r -Mana	aged L	ands		· ·		
9	1	MA107	Lae Park	UPG. (Formerly called Paia Courthouse). Siren is w/in park close to entrance gate.	dpr writ appvł 2/16/08.	DPR	SMA	СОМ	SMA permit & COM appvl.	TMK 2-5-5: 60. N20 56' 4.091", W156 21' 19.232"	1
10	1	MA402	MALUULUOLE LE Park	UPG. Siren is within the park and close to the basketball court. SMA exempted on 2/22/11. Flood zone permit received. Address is off Front St.	DPR appvl 6/17/10	DPR	SMA, flood zone- A:100yr.	DLNR	DLNR appvl requested 5/17/11.	TMK 4-6-7:2. N20 52' 8.633", W156 40' 31.033"	1
11	1	MA406	NAPILI Park	UPG. SMA exempted on 2/22/11. Siren is w/in Napili Neighborhood Park and close to Honoapiilani Hwy & Maiha St.	DPR appvl on 6/17/10.	DPR	SMA	сом	COM appvl	TMK 4-3-18: 41. N20 59' 13.723", W156 39' 38.532"	1
12	1	MA403	OLD Lahaina CANNERY	UPG. Siren is close to Mala Wharf.	-	DPR	SMA, flood zone	сом	Site user appvl. COM appvl. SMA permit. Flood zone permit.	TMK 4-5-5: 21. N20 53' 6.63", W156 41' 10.43"	-
13	1	MA111	ST. THERESA	UPG. Existing siren is located at the end of West Lipoa Street. Repl siren close to St. Theresa Church and West Lipoa St.	-	DPW (W. Lipoa St ROW)	SMA, flood zone- A:100yr	СОМ	Site user appvl. COM appvl. SMA permit. Flood zone permit.	Close to TMK 3-9 9:12. N20 44' 50.577", W156 27' 25.412"	_
14	1	MA114	Wailea Kilohana BWS	UPG (AKA Keawekapu). Siren is within water tank site. Address is off Kilohana Dr. (Adjacent site is also County owned)		DWS	SMA	сом	Site User appvl. SMA permit. COM appvl. Ltr sent to DWS 6/10/10.	TMK 2-1-8:55. N20 42' 17.923", W156 26' 14.603"	-
15	-	MA121	WAILEA #1- MOKAPU	UPG. Formerly Ulua Beach Park. Added to 241-list on 3/22/11.	DPR writ, 4/30/09	DPR	SMA	сом	COM appvl. SMA permit.	TMK 2-21-8: 88. N20 41' 29.979", W156 26' 36.975"	1
16	2	MA514	One Alii Park	ADD. MOLOKAI. Siren is within One Alii Park. Address is Mile 3 - Highway 450.	dpr writ appvl 2/12/08	DPR	SMA	сом	COM appvl. SMA in process 3/22/11.	TMK 5-4-3: 23. N21 4' 18.127", W156 58' 26.235"	1
17	2	MA513	Papohaku Beach Park	ADD. MOLOKAI. Siren is w/in Papohaku Beach Park. Address is Mile 14.9 - Kaluakoi Rd.	dpr writ appvl 2/12/08	DPR	none	СОМ	COM appvl.	TMK 5-1-6: 73. N21 10' 23.153", W157 15' 2.564"	1
18	4	MA139		ADD.Siren is in park and close to basketball court and Kaihoi St & Kaiolohia St.	dpr writ, 4/30/09	DPR	none	СОМ	COM appvl.	TMK 3-8-4: 31. N20 46' 51.424", W156 26' 47.605"	1
19	4	MA146		ADD.Siren is in park and close to gym. Address is 75 Makomako St.	dpr writ appvl 2/12/08	DPR	none	СОМ	COM appvl.	TMK 2-5-8: 1. N20 52' 12.821", W156 20' 20.191"	1

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20	4	MA141	Hookipa Place	ADD. (AKA Maui Meadows), ALT-1 IS PREFERRED.Siren is within water tank yard and off Hookipa Place. Address is Mile #9 - Hana Highway.	-	DWS	none	сом	Site user appvl. COM appvl.	TMK 2-1-108: 84. N20 41' 39.644", W156 25' 28.639"	_
21	4	MA307	Kalo Road	ADD. Hana, Maui. Alt 2 is preferred. Siren is in ROW and close to Kalo Rd & Kuwawa Place	Tentative DPW appvl	DPW (Kalo Rd ROW)	none	СОМ	COM appvl.	Close to TMK 1-3- 9: 24. N20 46' 50.679", W156 1' 32.202"	1
22	4	MA415	Kelawea Mauka III Park	ADD.Siren is w/in ROW and close to Kelawea Mauka Makai Park and Ikena Ave. & Lahainaluna Rd.	Tentative DPW appvl	DPW (Ikena Ave ROW)	none	сом	COM appvl.	Close to TMK 4-5- 3: 47. N20 53' 0.71", W156 40' 1.185"	1
23	4	MA145	Keokea Park	ADD.Siren is in Keokea park and close to Community Center. Address is 218 Lower Kula Rd.	dpr writ appvl 2/12/08.	DPR	none	DLNR	DLNR appvl requested 5/17/11.	TMK 2-2-3: 31. N20 42' 43.838", W156 21' 13.548"	1
24	4	MA511	Kualapuu Park	ADD. MOLOKAI. Per COM on 5/24/11, land was transferred to COM in Dec 2010. Siren is within the park and close to the parking lot and softball field. Address is 1 Uwao St.	DPR appvl 6/17/10	DPR	none	сом	COM appvl.	TMK 5-2-28: 98. N21 9' 19.672", W157 2' 12.689"	1
25	4	MA154	Manduke Baldwin Park	ADD. Siren is in roadway shoulder and close to Olinda Rd. & Hanamu Rd.	_	DPW (Olinda Rd ROW)	none	СОМ	Site user appvl.	Close to TMK 2-4- 8: 41. N20 50' 23.23", W156 18' 27.91"	1
26	4	MA150	Mokuhau Park	ADD.Siren is close to canal access road and Kahawai & Nenea St.	dpr writ appvl 2/12/08	DPR	none	СОМ	COM appvl.	TMK 3-4-35: 57. N20 53' 19.454", W156 30' 31.35"	1
27	4	MA143	Omaopio Road	ADD.Siren is in front of water tank yard. Site is close to Omaopio Rd & Kula Hwy.		DWS	none	сом	Site user appvl. COM appvl.	TMK 2-3-3: 130. N20 47' 55.925", W156 19' 48.957"	-
28	4	MA515	Puu Hauole Park	ADD. Molokai. Siren is within Puu Hauola Park and close to the basketball court. Address is 155 Mahalo Place.	dpr writ appvl 2/12/08	DPR	none	СОМ	COM appvl.	TMK 5-3-4: 37. N21 5' 41.813", W157 1' 27.79"	1
29	4	MA153	Rainbow Park	ADD. Siren is close to Rainbow Park and along Baldwin Ave.	Tentative DPW appvl	DPW (Badwin Ave ROW)	none	СОМ	COM appvl.	Close to TMK 2-5- 5:038. N20 53' 23.231", W156 20' 50.966"	1
30	4	MA144	Rice Park	ADD.Siren is close to Park's parking lot and off Lower Kula Rd.	dpr writ appvl 2/12/08	DPR	none	сом	COM appvl.	TMK 2-2-6: 67. N20 44' 28.76", W156 19' 57.498"	1

	Sir	ens o	n Maui	County-Owned o	r -Mana	iged L	ands				
31	4	MA152	Waiale Park	ADD.Siren is close to Park's baseball field and intersection of Waimaluhia Lane & Waiale Rd.	dpr writ appvl 2/12/08	DPR	none	COM	COM appvl.	TMK 3-8-46: 38. N20 52' 25.214", W156 29' 58.274"	11
32	4	MA149	War Memorial Stadium	ADD. DLNR-SP confirmed this site is in 6(f). Siren is close to stadium parking lot.	dpr writ appvl 2/12/08	DPR	6(f) site	сом	6(f) issue. COM appvl.	TMK 3-8-7:55. N20 53' 38.236", W156 29' 12.206"	_1
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			nal or new siren	Application Permit			-				
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	COM -	County of	maui and and Natura	Pasourcas							
	DLNR	- Dept. or i	of land and Nati	ural Resources Division of State Part	ks						
	DEN	Dent of P	arks and Recrea	tion							
			ublic Works								
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